

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

-against-

05-CR-101

CARLOS SANTIAGO, JR.,

Defendant

**THOMAS J. McAVOY,
Senior United States District Judge**

ORDER

Defendant CARLOS SANTIAGO, JR. moves the Court to “correct the factual inaccuracies” contained in his Presentence Investigative Report (“PSI”). See dkt. # 247. Defendant contends that his PSI incorrectly noted that a prior state court conviction was for Kidnapping when the offense of conviction was for Attempted Burglary in the 3rd Degree. Id. Defendant further contends that the inaccuracy is “having an adverse affect” on the Bureau of Prison’s assessment of his “custody level.” Id.

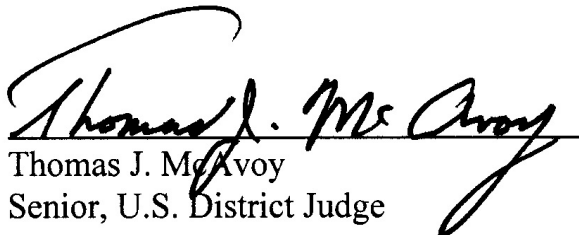
As noted in the U.S. Probation Office’s response to Defendant’s motion, the PSI correctly reflected that the state court offense of conviction was for Attempted Burglary in the 3rd Degree. See dkt. # 248; PSI ¶ 36. The PSI did reflect, in a narrative portion of paragraph 36, that Plaintiff had been arrested and charged with Kidnapping based on conduct that occurred on February 10, 2001 (the date from which the Attempted Burglary in the 3rd Degree charge arises). PSI ¶ 36. This representation was not inaccurate. See

dk. # 248 (citing state court records). Furthermore, the Probation Office points out that “in the presentence interview, the defendant acknowledged the arrest and offered his recollection of his [limited] degree of participation in the [Kidnapping] offense, which was parenthetically included in the narrative entry” of paragraph 36 of the PSI. Dkt. # 248; see PSI ¶ 36.

The Court finds no inaccuracy in the PSI, and, therefore, Defendant’s motion to correct his PSI [dk. # 247] is **DENIED**.

IT IS SO ORDERED

DATED: September 12, 2007


Thomas J. McAvoy
Senior, U.S. District Judge